

**Amendment and Response**

Applicant: Jeffery S. Hess

Serial No.: 10/061,514

Filed: February 1, 2002

Docket No.: 10010488-2

Title: SUBSTRATE AND METHOD OF FORMING SUBSTRATE FOR FLUID EJECTION DEVICE

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**REMARKS**

The following remarks are made in response to the Non-Final Office Action mailed January 29, 2004 in which claims 72-98 were provisionally rejected. With this Amendment, previously withdrawn claims 99-112 have been cancelled without prejudice. Claims 72-98, therefore, remain pending in the application and are presented for reconsideration and allowance.

**Double Patenting**

Claims 72-98 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-39 of co-pending Application No. 10/062,050.

Concurrently with this Amendment, a terminal disclaimer in compliance with 37 CFR 1.321(c) has been filed to overcome the non-statutory double patenting rejection based on Application No. 10/062,050.

In view of the above, Applicant submits that the non-statutory double patenting rejection of claims 72-98 has been overcome. Applicant, therefore, respectfully requests that the provisional rejection of claims 72-98 under the judicially created doctrine of obviousness-type double patenting be reconsidered and withdrawn and that claims 72-98 be allowed. Applicant submits that the filing of this terminal disclaimer is to obviate the rejection based on non-statutory double patenting and is not an admission of the propriety of the rejection.

**Allowable Subject Matter**

Claims 72-98 have been indicated as being allowable over the prior art. Applicant appreciates the indicated allowability of claims 72-98.

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In view of the above, Applicant respectfully submits that pending claims 72-98 are all in a condition for allowance and requests reconsideration of the application and allowance of all pending claims.

Any inquiry regarding this Amendment and Response should be directed to either Dmitry R. Milikovsky at Telephone No. (858) 655-3251, Facsimile No. (858) 655-5859 or Scott A. Lund at Telephone No. (612) 573-2006, Facsimile No. (612) 573-2005. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,

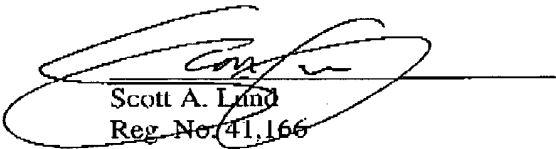
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**CERTIFICATE UNDER 37 C.F.R. 1.8:** The undersigned hereby certifies that this paper or papers, as described herein, are being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) 872-9306 on this 8TH day of April, 2004.

By   
Name: Scott A. Lund